

January 10, 2005

**OFFICE OF THE HEARING EXAMINER  
KING COUNTY, WASHINGTON**

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Seattle, Washington 98104  
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**REPORT AND DECISION**

SUBJECT: Department of Development and Environmental Services File No. **E0500059**

**JOHN VANLANDINGHAM**  
Code Enforcement Appeal

Location: 2007 South 126th Street

Appellant: **John Vanlandingham**  
2007 South 126th Street  
Seattle, Washington 98168  
Telephone: (206) 431-9696

King County: Department of Development and Environmental Services,  
*represented by* **DenoBi Olegba**  
900 Oakesdale Avenue Southwest  
Renton, Washington 98055-1219  
Telephone: (206) 205-1528  
Facsimile: (206) 296-6604

**SUMMARY OF DECISION/RECOMMENDATION:**

|  |   |
|--|---|
| Department's Preliminary Recommendation: | Deny appeal with correction schedule                      |
| Department's Final Recommendation:       | Dismiss Charge 2; deny appeal; extend dates of compliance |
| Examiner's Decision:                     | Dismiss Charge 2; deny appeal; extend dates of compliance |

**EXAMINER PROCEEDINGS:**

|                 |                   |
|-----------------|-------------------|
| Hearing Opened: | December 22, 2005 |
| Hearing Closed: | December 22, 2005 |

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes.  
A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS OF FACT:

1. On October 7, 2005 the King County Department of Development and Environmental Services (DDES) issued a Notice and Order to Appellant John Vanlandingham and the subject property that alleges code violations at R-6-zoned property located at 2007 South 126th Street. The Notice and Order cites violations of county code by a) operation of an auto repair business on a residential site in violation of the standards for a home occupation, citing KCC 21A.08.050 and the referenced use classifications 753 and 754 of the 1987 Standard Industrial Classification (SIC) Manual (used by reference in the zoning code as part of the classification of land uses); b) conversion of the upper story of a garage into habitable space without required permits, inspections and approvals; and c) accumulation of inoperable vehicles and vehicle parts in exterior storage as well as parking and storage of vehicles on non-impervious surfaces.
2. The Notice and Order required that by November 7, 2005, the auto repair business be ceased; that the residential use above the garage be ceased or application for and obtainment of required permits, inspections and approvals for such conversion of the upper floor of the garage be performed, with a complete application to be submitted by such date. (In the event the permit application is denied, the upper floor of the garage must be vacated from habitation within 30 days from the date of permit denial.) Lastly, inoperable vehicles and vehicle parts in exterior storage on the property must be removed or stored within a fully enclosed building, and parking/storage of vehicles on non-impervious surfaces must be ceased, again all by November 7, 2005.
3. Appellant Vanlandingham filed a timely appeal of the Notice and Order. The appeal disputes the charge of operation of an auto repair business on the property, contending that the Appellant is only allowing non-resident friends (and perhaps residents, as the main house onsite is rented out by the Appellant) and fellow auto enthusiasts to use the property to build, rebuild, repair and maintain sports rally cars on a non-paying basis and that therefore there is no commercial activity *per se*. The Appellant terms the requirement of impervious surfaces for parking and storage of vehicles as nonsensical. The Appellant also contends that he obtained a realtor's assurances that the property could be used in the fashion it is.
4. Associated aspects of the land use apparent onsite are extensive and voluminous storage of used auto parts, and the receiving and exterior storage of shipped parts (such as new or rebuilt engine blocks, etc.) for use in auto work onsite.
5. As another use onsite, the Appellant appears to be operating a valid and code-conforming home occupation use in designing and distributing custom auto parts. Ninety-five percent of the distribution of the parts is done by mail order, almost all of the parts are manufactured offsite by machine shop vendors, while some minor fabrication is conducted onsite, and there is no purchase traffic coming to the site to conduct business. Those aspects of the land use onsite appear to qualify as a permitted home occupation use.
6. The auto building, rebuilding, wrecking, repair and maintenance uses conducted onsite may not comprise a commercial auto repair *business* in the classic sense, but still constitute an automotive repair *use* (constituting SIC use class 753); that is how the land use is termed in the zoning code, not as an "automotive repair *business*" but simply as "automotive repair." [KCC 21A.08.050]

7. In addition, the allowance of non-residents who are auto enthusiasts to work on their cars on the property certainly constitutes an “automotive service” use (SIC use class 754), another classification which is not required to be a business *per se* (it similarly is termed in the zoning code not as an “automotive service *business*” but simply as an “automotive service” land use). [KCC 21A.08.050]
8. The use constitutes a club (formal or informal) auto repair use and/or a do-it-yourself auto repair operation, with the Appellant acting as an advisor to other enthusiasts. Whether or not such use constitutes a commercial activity *per se*, in other words conducted on a paying or for-profit basis, is irrelevant. It is the nature and aspects of the use which comprise the type of use of the land, and these automotive repair and automotive service uses being conducted onsite are not permitted in the R-6 residential zone. [KCC 21A.08.050, SIC 753 and 754]
9. The Appellant has had some of the auto parts cleaned up from the yard, and some inoperable vehicles removed, but some remain to be removed. Since the auto repair/renovation/rebuilding activity on site is not permitted, all inoperable vehicles and vehicle parts must be removed from the site or placed in interior storage within a fully enclosed building. In addition, any exterior parking of vehicles must be on impervious surfaces, as required under county code.
10. The preponderance of the evidence in the record demonstrates that violation Charges 1 and 3 of the Notice and Order are correct.
11. DDES has essentially withdrawn violation Charge 2 regarding the conversion of the upper story of the garage, noting that the Appellant has applied for the necessary permits and due progress is being made. Accordingly, the Examiner shall dismiss such charge without prejudice, which will allow DDES to re-engage in enforcement activity if necessary if the construction work is not performed to code requirements and the necessary inspections and approvals are not obtained and completed in satisfactory fashion.

#### CONCLUSIONS:

1. The auto repair/rebuilding/renovation/maintenance activity being conducted on the property, whether commercial in nature or not, is in violation of county code as noted above, and the respective Charge 1 of the Notice and Order is correct and shall be sustained.
2. As noted, the examiner shall dismiss Charge 2 without prejudice, since DDES is satisfied with the progress that is being made to date to achieve compliance with respect to that alleged violation.
3. As outside storage of inoperable vehicles and auto parts on the property and parking on non-impervious surfaces is being conducted in violation of county code as charged, Charge 3 of the Notice and Order is correct and shall be sustained.
4. As the schedule for correction has been obviated by the time taken up by the appeal, the Examiner shall impose a revised schedule of compliance.

## DECISION:

Charge 2 of the Notice and Order regarding conversion of the upper story of the garage into habitable space without required permits, inspections and approvals, is DISMISSED without prejudice. With respect to Charges 1 and 3, the appeal is DENIED and the Notice and Order SUSTAINED, except that the deadlines for regulatory compliance are revised and extended as stated in the following order.

## ORDER:

1. Cease operation of any auto repair/renovation/rebuilding/maintenance on the subject property (except that conducted legitimately on a normal, occasional residential accessory basis by permanent residents of the site), *by no later than February 13, 2006*.
2. *By no later than March 13, 2006*, all vehicle parts and all inoperable vehicles in exterior storage onsite shall be removed from the subject property (or brought into interior storage and/or into fully operable condition in conformity with code requirements including limitations on numbers and residential status). Also, *by no later than March 13, 2006*, any parking of vehicles onsite shall be on impervious surfaces in conformity with county code requirements.
3. No penalties shall be assessed against the Appellant or the property if the above compliance deadlines are met in full. If any of the deadlines is not met, DDES may assess penalties against the Appellant and/or the property retroactive to the date of this order.

ORDERED this 10th day of January, 2005.

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Peter T. Donahue, Deputy  
King County Hearing Examiner

TRANSMITTED this 10th day of January, 2006 via certified mail to the following:

John Vanlandingham  
2007 S. 126th St.  
Seattle, WA 98168

TRANSMITTED this 10th day of January, 2006, to the following parties and interested persons of record:

Tim Frei  
2007 SE 126th St.  
Seattle WA 98168

John Vanlandingham  
2007 S 126th St.  
Seattle WA 98168

Jeri Breazeal  
DDES/LUSD  
MS OAK-DE-0100

DDES, Code Enf. Billing  
MS OAK-DE-0100

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Lamar Reed  
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### NOTICE OF RIGHT TO APPEAL

Pursuant to Chapter 20.24, King County Code, the King County Council has directed that the Examiner make the final decision on behalf of the County regarding code enforcement appeals. The Examiner's decision shall be final and conclusive unless proceedings for review of the decision are properly commenced in Superior Court within twenty-one (21) days of issuance of the Examiner's decision. (The Land Use Petition Act defines the date on which a land use decision is issued by the Hearing Examiner as three days after a written decision is mailed.)

### MINUTES OF THE DECEMBER 22, 2005, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. E0500059.

Peter T. Donahue was the Hearing Examiner in this matter. Participating in the hearing was DenoBi Olegba, representing the Department; the Appellant, John Vanlandingham; Sonja Hardy and Tim Frei.

The following Exhibits were offered and entered into the record:

- Exhibit No. 1 DDES staff report to the Hearing Examiner for December 22, 2005
- Exhibit No. 2 Copy of Notice and Order issued October 7, 2005
- Exhibit No. 3 Copy of Notice and Statement of Appeal with attachments (number 3-29), received October 20, 2005
- Exhibit No. 4 Copies of codes cited in the Notice and Order
- Exhibit No. 5 Photographs (23 color copies, lettered A – W)
- Exhibit No. 6 a Printout from King County Dept of Assessments' records, dated 11/25/05
  - b Stop Work Order
  - c Stop Work notice dated 4-22-05
  - d Notice of Violation dated 1-21-2005
  - e Notice of Violation dated 4-22-05
  - f Do Not Occupy Notice dated 4-22-05
  - g Printout from King County Department of Assessments for parcel 092304-9277
- Exhibit No. 7 Photograph of gravel parking area
- Exhibit No. 8 Copy of code printout
- Exhibit No. 9 Building services submittal forms and statements with attach photographs

PTD:gao  
E0500059 RPT